

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 1:19-CR-01155-JAP
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Albuquerque, New Mexico
)	
DARREN BENALLY,)	Monday, April 22, 2019
)	
<u>Defendant.</u>)	(9:48 a.m. to 9:56 a.m.)

INITIAL APPEARANCE / ARRAIGNMENT / DETENTION HEARING

BEFORE THE HONORABLE KAREN B. MOLZEN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: JOHN STANFORD, ESQ.
U.S. Attorney's Office
District of New Mexico
P.O. Box 607
Albuquerque, NM 87103

For Defendant: AMY SIRIGNANO, ESQ.
5901J Wyoming Blvd. NE, Suite 250
Albuquerque, NM 87109

U.S. Pretrial/Probation: Anthony Galaz

Court Reporter: Recorded; Digital; Rio Grande

Clerk: E. Romero

Transcribed By: Exceptional Reporting Services, Inc.
P.O. Box 18668
Corpus Christi, TX 78480-8668
361 949-2988

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

Albuquerque, New Mexico; Monday, April 22, 2019; 9:48 a.m.

(Call to Order)

THE COURT: All right. For initial appearance --

Are you prepared to proceed?

MS. SIRIGNANO: Yes, your Honor.

THE COURT: United States of America versus Darren Benally in Criminal Cause 19-1155-JAP.

MR. STANFORD: John Stanford for the government, your Honor.

THE COURT: Thank you, Mr. Stanford.

(Pause; Counsel and Defendant confers)

MS. SIRIGNANO: May I approach, your Honor?

THE COURT: You may.

(Counsel approached and tendered document)

MS. SIRIGNANO: Thank you.

THE COURT: All right. Mr. Benally, if you'd raise your right hand; I'm going to place you under oath.

(Defendant Sworn)

THE COURT: Now that you're under oath, you must tell me the truth or you could be prosecuted for perjury or making a false statement.

This is what's known as your "initial appearance" in court. You've been charged with a federal crime. I need to advise you of your rights in this matter.

First, You have the right to remain silent. Anything

1 that you say can be used against you. If you start to make a
2 statement and change your mind, you can stop at any time.

3 You also have the right to have an attorney present
4 during questioning; in fact, you have the right to have an
5 attorney present at all times during this litigation. If you
6 cannot afford an attorney, I will appoint one to represent you
7 free of cost.

8 Ms. Sirignano, are you retained in this matter?

9 **MS. SIRIGNANO:** I am not.

10 **THE COURT:** All right. Has Mr. Benally filled out a
11 financial affidavit?

12 **(Pause)**

13 **MS. SIRIGNANO:** Your Honor, I do represent him
14 privately on another matter. I talked to Mark Robair
15 (phonetic) on Friday about that. His family won't be able to
16 retain me in this matter. I'm here as a courtesy to the court
17 and to him to let him know what this is and --

18 **THE COURT:** Yeah. What I'll do is ask that Pretrial
19 Services get a financial affidavit. And if that works, I'll go
20 ahead and appoint you pursuant to CJA.

21 **MS. SIRIGNANO:** Thank you, Judge.

22 **THE COURT:** Very good.

23 **MS. SIRIGNANO:** And the reason why I'm here is
24 because the government's filed a notice of related cases
25 between these two matters.

1 **THE COURT:** I saw that. I did see that so it makes
2 sense for you to represent him on both matters.

3 **MS. SIRIGNANO:** Thank you, Judge.

4 **THE COURT:** All right. Now, Mr. Benally, you have
5 been charged in an indictment.

6 Is the government moving to detain at this time?

7 **MR. STANFORD:** We are, your Honor.

8 **THE COURT:** That means you'll be entitled to a
9 detention hearing. At that hearing I'll see if there are any
10 conditions for your release until the time of trial that would
11 assure the safety of the community and also assure you return
12 at all future court proceedings.

13 Now, you'll also be entitled to a full [sic] trial on
14 this charge. At that jury trial you'll be presumed innocent
15 and have the assistance of your lawyer; again, free of cost.
16 You'll be able to compel witnesses to come and testify under
17 oath. You'll be able to see and hear all of the witnesses when
18 they testify and you can cross-examine them. The government
19 cannot force you to testify at the trial and your silence
20 cannot be used as evidence against you, but you will have the
21 right to take the stand and testify if you choose to do so.
22 That will be your decision, not your attorney's decision to
23 make. But if you testify, anything you say can be used against
24 you. You cannot be convicted unless the government proves your
25 guilt beyond a reasonable doubt to all 12 jurors.

1 Do you understand all of this information, sir?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** And again, what is your full name?

4 **THE DEFENDANT:** Darren Benally.

5 **THE COURT:** And how old are you?

6 **THE DEFENDANT:** Twenty six.

7 **THE COURT:** How far have you gone in school?

8 **THE DEFENDANT:** Graduated and took the college
9 classes too for roughly two and a half years.

10 **THE COURT:** All right. And I guess you're already in
11 custody, federal custody; is that right?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** Okay. So are they aware of any physical
14 or mental conditions that you have that require attention?

15 **THE DEFENDANT:** There is something. I don't really
16 understand the English but just simple conversations --

17 **THE COURT:** Okay, I'll slow down.

18 **THE DEFENDANT:** Yeah, yeah, just like.

19 **THE COURT:** Yes, I will slow down.

20 Are you able to understand everything that's
21 happening today?

22 **THE DEFENDANT:** So far, yeah.

23 **THE COURT:** Okay. You let me know if you don't.

24 **THE DEFENDANT:** Okay.

25 **THE COURT:** And today, are you under the influence of

1 drugs, medicines or alcohol?

2 **THE DEFENDANT:** No, no.

3 **THE COURT:** Did you receive a copy of the charge from
4 the grand jury, that indictment?

5 **THE DEFENDANT:** Yes.

6 **THE COURT:** Did you review it with your attorney?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** Do you understand the charge?

9 **THE DEFENDANT:** Yes.

10 **THE COURT:** And what are the maximum penalties,
11 Mr. Stanford?

12 **MR. STANFORD:** Your Honor, zero to five years'
13 imprisonment, a \$250,000 fine; a three-year term of supervised
14 release; a \$100 special penalty assessment and any restitution
15 as may be ordered by the court.

16 **THE COURT:** All right. Now, what we're going to do,
17 Mr. Benally, is give you an opportunity to talk to
18 Ms. Sirignano and we'll come back for that -- well, actually,
19 you've handed up a Waiver of Detention Hearing. Mr. Benally, I
20 could hold a hearing and see if there were any conditions for
21 your release that would be appropriate. I described that
22 earlier. I've been handed a waiver of that detention hearing.
23 Is that how you want to proceed, sir? You want to give up that
24 hearing?

25 **(Pause; Counsel and Defendant confer)**

1 **THE DEFENDANT:** Yeah, I'll wait [sic], your Honor.

2 **THE COURT:** Okay, you'll waive that hearing? I find
3 the defendant has knowingly and voluntarily waived that
4 detention hearing. He'll remain in custody on this charge as
5 well.

6 Now, are you satisfied with the advice and
7 representation you're receiving from Ms. Sirignano?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** Are you happy with the job she's doing
10 you as --

11 **THE DEFENDANT:** Yeah.

12 **THE COURT:** -- for you as your attorney?

13 **THE DEFENDANT:** Yeah, yes.

14 **THE COURT:** And Ms. Sirignano, are you willing to
15 waive a formal reading of the indictment at this time?

16 **MS. SIRIGNANO:** Yes, your Honor, and we enter a
17 not-guilty plea to the charge in the indictment.

18 **THE COURT:** Thank you. A not-guilty plea will be
19 entered. I'll enter the standing discovery order
20 electronically. Your motions are due May 12th and you'll be
21 notified by Judge Parker's chambers of a trial date.

22 **MS. SIRIGNANO:** Thank you, Judge.

23 **THE COURT:** I think that completes everything for us
24 today. Anything else?

25 **MS. SIRIGNANO:** No, thank you, Judge, appreciate it.

(Proceeding adjourned at 9:56 a.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



Signed

June 4, 2019

Dated

TONI HUDSON, TRANSCRIBER